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## **Questions and Answers: OLAF's 2011 Annual Operational Report**

### **What does the European Anti-Fraud Office (OLAF) do?**

The mission of OLAF is to protect the financial interests of the EU, to fight fraud, corruption and any other irregular activity affecting the EU budget, including misconduct within the European Institutions.

OLAF is competent to investigate possible wrongdoings only when they might have an impact on EU financial interests. All similar wrongdoings affecting the national budgets are the exclusive competence of the relevant national authorities.

OLAF itself does not investigate all possible wrongdoings affecting EU financial interests. It is part of a larger system comprising audit as well as investigative bodies within the EU institutions as well as in the Member states. OLAF steps in whenever it is better placed to act than the national authorities or if the national authorities fail to take the appropriate action.

### **What kinds of investigations does OLAF carry out?**

OLAF is an administrative investigation service and does not possess powers usually attributed to the police, judicial or prosecution authorities within the Member states.

OLAF acts on allegations of fraud, corruption and any other irregular activity affecting the EU budget. The initial facts are carefully verified and assessed. If there is a serious suspicion that the alleged wrongdoing took place after this initial process, an investigation is opened in line with Regulation (EC) No 1073/1999. During the investigation, OLAF aims to verify, in cooperation with the relevant national authorities as well as EU bodies, all the facts that would establish whether or not any wrongdoing took place. Once the investigation is completed in line with operational procedures and while respecting the individual rights of those concerned, the final case report is drawn up. This report summarises relevant facts and the investigative actions taken. Whenever a report concludes that the wrongdoing did indeed take place, appropriate follow-up action is recommended. The report is sent to the relevant national authorities and/or other EU bodies which are responsible for implementation of the follow-up action. They may, at their own discretion, decide to take action different to that recommended by OLAF. As OLAF is not a judicial body, it does not have any powers to impose its follow-up recommendations.

### **What measures are in place to protect EU funds from fraud?**

Under EU law, Member States have primary responsibility for preventing, detecting and following up on irregularities and fraud. They are responsible for collecting EU budget revenues (traditional own resources) on behalf of the Community and for managing almost 80% of EU budget expenditure. For this very reason, Member States are required to cooperate with the Commission to offer assurance and accountability over the use of EU funds. This is known as the system of shared management.

The European Commission checks whether the national administrative practices are in line with EU rules, and whether the Member States' control systems are working properly.

### **What is the difference between OLAF's Annual Activity Report, the Annual Report on the Protection of the EU's financial interests and the European Court of Auditors' Annual Report?**

OLAF's Annual Operational Report summarises the office's main achievements as regards operational activities and anti-fraud policy work. It presents the geographical and sectoral distribution of evaluations and investigations as well as results of follow-up actions taken by national authorities and/or other EU bodies.

The European Court of Auditors' Annual report contains its observations on the execution of the EU budget for the financial year. The annual report provides the basis for the launch of the discharge procedure, which brings the annual budgetary process to an end.

The Annual Report on the Protection of the EU's financial interests is published by the Commission. It contains data on irregularities and suspected fraud against the EU budget, both in terms of its revenue and expenditure that have been detected and reported by authorities in the Member States. It also contains information regarding the recovery of money affected by these irregularities and suspected fraud in the Member States. This Annual Report is provided for in the Treaty on the Functioning of the European Union (article 325) and is presented to the European Parliament and the Council.

### **What is the difference between an "irregularity", "fraud" and "error"?**

Irregularity is any infringement of an EU provision by an economic operator which has, or would have, the effect of prejudicing the EU's financial interests.

Fraud is an irregularity committed intentionally with the intention of illicit gain which constitutes a criminal offence. The Member States are required to identify those reported irregularities which they suspect constitute fraud. The actual financial impact of identified fraud can be measured only at the end of legal proceedings.

Error is a concept used by the European Court of Auditors (ECA) to establish error rates on the basis of a sample number of transactions. Error is not a term defined in anti-fraud legislation. The approaches of the Commission and the ECA are therefore not directly comparable.

**Does a higher number of active investigations reflect a higher level of fraud in a Member State?**

The distribution of investigations in Member States does not necessarily reflect underlying fraud patterns as many other factors come into play. For example, a disproportionately large number of cases, relative to the size of the countries, are detected in Belgium and Luxembourg. The reason for this is that most EU institutions are based there and therefore a large proportion of the cases are dealt with by either Belgian or Luxembourg courts. A larger number of suspected fraud cases might also reflect that the law enforcement body in a particular Member State is more efficient than elsewhere.